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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON

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9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 v.

12 URIEL ALEJANDRES-SANTA
13 CRUZ, CARLOS ESPINOZA-
14 SALGADO, and PEDRO ORIZ-
15 CASTILLO,

Defendants.

NO. CR-08-2089-RHW-1
CR-08-2089-RHW-2
CR-08-2089-RHW-3

**ORDER ADDRESSING
PRETRIAL MOTIONS; DENYING
MOTION TO SUPPRESS**

16 A pretrial conference was held on January 20, 2009. Defendant Uriel
17 Alejandres-Santa Cruz was represented by Michael Lynch; Defendant Carlos
18 Espinoza-Salgado was represented by Brian Sanderson; Defendant Pedro Oriz-
19 Castillo was represented by Troy Lee. The Government was represented by Shawn
20 Anderson. Before the Court were a number of pretrial motions, including
21 Defendant Alejandres-Santa Cruz's Motion to Suppress (Ct. Rec. 76).

22 Defendant is challenging the issuing of two search warrants in Yakima
23 County Superior Court. The first search warrant was issued on July 24, 2008, and
24 was signed by Judge Michael Schwab, Superior Court Judge in Yakima County.
25 The search warrant authorized the search of two parcels, each containing a
26 vineyard. The warrant specifically stated that the warrant did not permit the search
27 of the residence adjoining the parcels.
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1 LEAD Task Force officers executed the search warrant on July 25, 2008.¹
2 They observed marijuana plants growing in the vineyards. They used the
3 information obtained during the execution of the first search warrant to obtain a
4 second warrant to search the residence located near the vineyard. The second
5 search warrant was executed on July 29, 2008.

6 Defendants argue that there was insufficient probable cause for the judge to
7 issue the warrant and that certain information contained in the warrant was too
8 stale for the issuing judge to consider. Defendants argue that the second search
9 warrant was based on the same information as the first with the additional evidence
10 obtained from the execution of the first warrant. As such, the evidence seized as a
11 result of the executions of both search warrants should be suppressed.

12 The Government argues that Defendants lack standing to challenge the
13 issuance of the search warrant. The Government points out that the property was
14 owned by Darlene Dahlin, and was leased to Carlos Ruiz, who is actually co-
15 Defendant Pedro Oriz Castillo.²

16 To establish standing to challenge the legality of a search or seizure,
17 Defendants must demonstrate that they have a “legitimate expectation of privacy”
18 in the items seized or the area searched. *United States v. Sarkisian*, 197 F.3d 966,
19 986 (9th Cir. 1999). To demonstrate this, Defendants must manifest a subjective
20 expectation of privacy in the area searched, and their expectation must be one that
21 society would recognize as objectively reasonable. *Id.* Defendants have the
22 burden of establishing that, under the totality of the circumstances, the search or
23 seizure violated their legitimate expectation of privacy in the vineyard. Mere
24

25 ¹LEAD Task Force is the Law Enforcement Against Drugs multi-
26 jurisdictional task force.

27 ²On October 19, 2008, the Court granted co-Defendant Pedro Oriz-Castillo’s
28 Motion to Join in the Motions of Co-Defendants.

1 presence at a place to search does not automatically confer standing. *Rakas v.*
2 *Illinois*, 439 U.S. 128, 142-43 (1978). Moreover, “Fourth Amendment rights may
3 not be vicariously asserted.” *Martinez v. Nygaard*, 831 F.2d 822, 825 (9th Cir.
4 1987).

5 Here, there is no evidence that Defendants Alejandres-Santa Cruz and
6 Espinoza-Salgado paid rent or were signatories on the lease for the vineyard.
7 There is nothing in the record to suggest that these Defendants had a reasonable
8 expectation of privacy with respect to the vineyard. Moreover, neither of these
9 Defendants are claiming any interest in the items seized.³ There is nothing in the
10 record to suggest that these Defendants had joint control or supervision of the
11 vineyard.

12 The Court finds that Defendants Alejandres-Santa Cruz and Espinoza-
13 Salgado have not established that they have a reasonable expectation of privacy
14 with respect to the vineyard. As such, they do not have standing to challenge
15 issuance of the search warrant.

16 The analysis with respect to co-Defendant Pedro Oriz Castillo is different.
17 Although he joined in the motion to suppress, he did not present any evidence that
18 he had a reasonable expectation of privacy in the vineyard. Defendant Oriz
19 Castillo did not present evidence of a property interest in the vineyard, but the
20 Government indicates that he is the leaseholder and the Court will assume the
21 same.

22 A vineyard normally qualifies as an open field, which is not afforded any
23 Fourth Amendment protections. *See Oliver v. United States*, 466 U.S. 170, 177-
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25 ³When executing the second search warrant, the agents seized 22,660
26 marijuana plants from the vineyard and property. They seized from the residence a
27 loaded rifle, loaded shotgun, and two loaded handguns, along with marijuana
28 seeds.

1 178 (1984) (holding that the open fields doctrine permits police officers to enter
2 and search a field without a warrant because there is no societal interest in
3 protecting the privacy of activities, such as the cultivation of crops, that occur in
4 open fields). Defendants have not argued that the vineyard somehow meets the
5 definition of curtilage, which would receive Fourth Amendment protections.⁴ No
6 other evidence was presented by Defendant Oriz Castillo that would suggest that
7 the vineyard was fenced, although the search warrant affidavit indicated that there
8 were several no-trespassing signs posted near the residence and along the vineyard
9 that ran to the south of the residence. Even if the vineyard was bounded on all
10 sides by a fence and had posted no-trespassing signs, Defendant would not have a
11 legitimate expectation of privacy in the vineyard. *See Oliver, id.* at 178 (holding
12 that “an individual may not legitimately demand privacy for activities conducted
13 out of doors in fields, except in the area immediately surrounding the home.”).
14 Also, it is irrelevant that the officers did not have permission to be at the vineyard.
15 *Id.* at 183-84. Because the second search warrant relied on observations of the
16 officers obtained while on the open field (the vineyard), the judge did not err in
17 issuing the second search warrant. These observations provide sufficient probable
18 cause for the issuance of the second search warrant for the adjoining residence and
19 two parcels.

20 Accordingly, **IT IS HEREBY ORDERED:**

21 1. Defendant Alejandres-Santa Cruz’s Motion to Suppress Evidence (Ct.
22 Rec. 76) is **DENIED**.

23 2. Defendant Alejandres-Santa Cruz’s Motion for Disclosure (Ct. Rec. 46)
24 is **DENIED**, as moot.

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26 ⁴Curtilage is defined as “the area to which extends the intimate activity
27 associated with the ‘sanctity of a man’s home and the privacies of life’” *Oliver*,
28 466 U.S. at 180.

1 3. Defendant Alejandres-Santa Cruz's Motion for Disclosure of Brady
2 Materials (Ct. Rec. 48) is **DENIED**, as moot.

3 4. Defendant Alejandres-Santa Cruz's Motion for Discovery (Ct. Rec. 50)
4 is **DENIED**, as moot.

5 5. Defendant Alejandres-Santa Cruz's Second Motion for Discovery (Ct.
6 Rec. 96) is **DENIED**, as moot.

7 6. Defendant Carlos Espinoza-Salgado's Motion for Discovery (Ct. Rec.
8 43) is **DENIED**, as moot.

9 7. Defendant Pedro Oriz-Castillo's Motion to Disclose Identity of
10 Confidential Informants and Compel Disclosure of Informant Information (Ct.
11 Rec. 55) is **DENIED**.

12 8. Defendant Pedro Oriz-Castillo's Motion for Discovery (Ct. Rec. 57) is
13 **DENIED**, as moot.

14 9. Defendant Pedro Oriz-Castillo's Motion for Disclosure of 404 & 609
15 Evidence (Ct. Rec. 59) is **DENIED**, as moot.

16 10. Defendant Pedro Oriz-Castillo's Motion for Severance of Defendants
17 Cases for Trial (Ct. Rec. 61) is **DENIED**, with leave to renew.

18 11. Defendant Pedro Oriz-Catillo's Motion to Compel Grand Jury
19 Transcripts (Ct. Rec. 64) is **DENIED**.

20 12. The jury trial currently set for February 2, 2009, will begin on January
21 30, 2009, in Yakima, Washington. Counsel shall appear in chambers at 8:30 a.m.
22 in the first day of trial.

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DATED this 23rd day of January, 2009.

ROBERT H. WHALEY
Chief United States District Judge

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